

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES,

-v-

TREVOR WHITTINGHAM,

Defendant.

No. 12-cr-971 (RJS)
ORDER

RICHARD J. SULLIVAN, Circuit Judge:

The Court is in receipt of a letter submitted by Trevor Whittingham, who is proceeding pro se, styled “Notice of Absence of Legal Evidence of Probable Cause.” (Doc. No. 42) In the letter, Whittingham asserts various constitutional violations and requests that the Court “vacate [his] void Sentence and Judgment.” (*Id.* at 1.) In July 2013, Whittingham pleaded guilty pursuant to a plea agreement to one count of willful failure to pay payroll taxes. (Doc. No. 16 (“Plea Tr.”) at 40.) The Court sentenced him to a term of imprisonment of one year and one day, to be followed by three years of supervised release. (Doc. No. 28 (“Sentencing Tr.”) at 29.) The Court also ordered him to pay restitution in the amount of \$251,265, which represented the amount Whittingham had accumulated in unpaid tax liabilities plus penalties and interest. (*Id.* at 31; Doc. No. 27.) Whittingham never filed a direct appeal of his sentence, and in May 2017, this Court denied his (1) motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255; and (2) his motion for early termination of supervised release. (Doc. No. 41.) Whittingham’s term of supervised release concluded on May 20, 2018. (*Id.* at 12.)

Having reviewed Whittingham’s latest submission, the Court sees no basis in it to grant the requested relief. To the extent Whittingham intended to file another motion under section 2255 to “vacate” his sentence, he is no longer in custody and, in any event, any such motion would be

both time-barred and procedurally-barred as a successive habeas petition. Accordingly, Whittingham's request to "vacate [his] void Sentence and Judgment" is respectfully DENIED.

The Clerk of Court is respectfully directed to mail a copy of this Order to Whittingham.

SO ORDERED.

Dated: September 6, 2022
New York, New York

A handwritten signature in blue ink, appearing to read 'R. J. Sullivan', is written over a horizontal line.

RICHARD J. SULLIVAN
UNITED STATES CIRCUIT JUDGE
Sitting by Designation